

# House Study Bill 692 - Introduced

HOUSE FILE \_\_\_\_\_

BY (PROPOSED COMMITTEE  
ON JUDICIARY BILL BY  
CHAIRPERSON SWAIM)

## A BILL FOR

- 1 An Act modifying sex offender registry provisions, and
- 2 providing penalties.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 692A.101, subsection 2, Code Supplement  
2 2009, is amended to read as follows:

3 2. a. *"Aggravated offense against a minor"* means a  
4 conviction for any of the following offenses, if such offense  
5 was committed against a minor, or otherwise involves a minor:

6 ~~a.~~ (1) Sexual abuse in the first degree in violation of  
7 section 709.2.

8 ~~b.~~ (2) Sexual abuse in the second degree in violation of  
9 section 709.3.

10 ~~c.~~ (3) Sexual abuse in the third degree in violation  
11 of section 709.4, except for a violation of section 709.4,  
12 subsection 2, paragraph "c", subparagraph (4).

13 b. Any offense specified in the laws of another jurisdiction  
14 or prosecuted in federal, military, or foreign court, that  
15 is comparable to an offense listed in paragraph "a" shall be  
16 considered an aggravated offense against a minor if such an  
17 offense was committed against a minor or otherwise involves a  
18 minor.

19 Sec. 2. Section 692A.101, subsection 28, Code Supplement  
20 2009, is amended to read as follows:

21 28. a. *"Sex offense against a minor"* means an offense  
22 for which a conviction has been entered for a sex offense  
23 classified as a tier I, tier II, or tier III offense under  
24 this chapter if such offense was committed against a minor, or  
25 otherwise involves a minor.

26 b. Any conviction for an offense specified in the laws  
27 of another jurisdiction or any conviction for an offense  
28 prosecuted in federal, military, or foreign court, that is  
29 comparable to an offense under paragraph "a" shall be considered  
30 a sex offense against a minor if such an offense was committed  
31 against a minor or otherwise involves a minor.

32 Sec. 3. Section 692A.102, subsection 1, paragraph c,  
33 Code Supplement 2009, is amended by adding the following new  
34 subparagraph:

35 NEW SUBPARAGRAPH. (5A). Penetration of the genitalia or

1 anus with an object in violation of section 708.2, subsection  
2 5.

3 Sec. 4. Section 692A.106, Code Supplement 2009, is amended  
4 by adding the following new subsection:

5 NEW SUBSECTION. 2A. If a sex offender is placed on  
6 probation, parole, or work release and the probation, parole,  
7 or work release is revoked, the period of registration shall  
8 commence anew upon release from custody.

9 Sec. 5. Section 692A.111, Code Supplement 2009, is amended  
10 by adding the following new subsection:

11 NEW SUBSECTION. 2A. Any violation of this chapter prior  
12 to July 1, 2009, shall be considered a previous offense for  
13 purposes of enhancing any penalty or period of registration  
14 under this chapter.

15 Sec. 6. Section 692A.123, Code Supplement 2009, is amended  
16 to read as follows:

17 **692A.123 Immunity for good faith conduct.**

18 Criminal or juvenile justice agencies, ~~and employees of~~  
19 ~~criminal or juvenile justice agencies and state agencies,~~  
20 schools as defined in section 692A.114, public libraries, and  
21 child care facilities, and their employees shall be immune  
22 from liability for acts or omissions arising from a good faith  
23 effort to comply with this chapter.

24 Sec. 7. Section 692A.125, subsection 2, paragraph c, Code  
25 Supplement 2009, is amended to read as follows:

26 c. Any sex offender who ~~is serving~~ has been sentenced to a  
27 special sentence pursuant to section 903B.1 or 903B.2 prior to  
28 July 1, 2009.

29 Sec. 8. Section 713.3, Code 2009, is amended by adding the  
30 following new subsection:

31 NEW SUBSECTION. 3. For purposes of determining whether  
32 the person should register as a sex offender pursuant to the  
33 provisions of chapter 692A for violations of subsection 1,  
34 paragraphs "a", "b", or "c", the fact finder shall make a  
35 determination as provided in section 692A.126.

1       Sec. 9.   Section 713.4, Code 2009, is amended by adding the  
2 following new unnumbered paragraph after unnumbered paragraph  
3 1:

4     NEW UNNUMBERED PARAGRAPH.   For purposes of determining  
5 whether the person should register as a sex offender pursuant  
6 to the provisions of chapter 692A, the fact finder shall make a  
7 determination as provided in section 692A.126.

8       Sec. 10. Section 713.5, Code 2009, is amended by adding the  
9 following new unnumbered paragraph after unnumbered paragraph  
10 2:

11        NEW UNNUMBERED PARAGRAPH. For purposes of determining  
12 whether the person should register as a sex offender pursuant  
13 to the provisions of chapter 692A, the fact finder shall make a  
14 determination as provided in section 692A.126.

15       Sec. 11. Section 713.6, Code 2009, is amended by adding the  
16 following new unnumbered paragraph after unnumbered paragraph  
17 2:

18        NEW UNNUMBERED PARAGRAPH. For purposes of determining  
19 whether the person should register as a sex offender pursuant  
20 to the provisions of chapter 692A, the fact finder shall make a  
21 determination as provided in section 692A.126.

22       Sec. 12. Section 713.6A, Code 2009, is amended by adding the  
23 following new subsection:

24 NEW SUBSECTION. 3. For purposes of determining whether  
25 the person should register as a sex offender pursuant to the  
26 provisions of chapter 692A, the fact finder shall make a  
27 determination as provided in section 692A.126.

28       Sec. 13. Section 713.6B, Code 2009, is amended by adding the  
29 following new subsection:

30 NEW SUBSECTION. 3. For purposes of determining whether  
31 the person should register as a sex offender pursuant to the  
32 provisions of chapter 692A, the fact finder shall make a  
33 determination as provided in section 692A.126.

34 EXPLANATION

35 This bill modifies sex offender registry provisions.

1 Current law in Code section 692A.101(2) specifies that  
2 the residency restrictions under Code section 692A.114 apply  
3 to a person convicted of sexual abuse in the first degree in  
4 violation of Code section 709.2, sexual abuse in the second  
5 degree in violation of Code section 709.3, and sexual abuse in  
6 the third degree in violation of Code section 709.4, except for  
7 a violation of Code section 709.4(2)(c)(4).

8 The bill provides that any conviction for an offense  
9 specified in the laws of another jurisdiction or any conviction  
10 for an offense prosecuted in federal, military, or foreign  
11 court, that is comparable to any offense listed in current law  
12 in Code section 692A.101(2) shall be considered an aggravated  
13 offense against a minor if the offense was against a minor or  
14 otherwise involved a minor, making the offender subject to  
15 the sex offender residency restrictions under Code section  
16 692A.114.

17 Current law specifies that the exclusionary zones and  
18 prohibited employment provisions apply to a sex offender who  
19 commits a sex offense against a minor. The bill provides that  
20 any conviction for an offense specified in the laws of another  
21 jurisdiction or any conviction for an offense prosecuted in  
22 federal, military, or foreign court, that is comparable to a  
23 conviction for a sex offense against a minor in this state  
24 shall be considered a sex offense against a minor in this  
25 state.

26 A person who violates the residency restrictions exclusions  
27 zones, or prohibited employment provisions commits an  
28 aggravated misdemeanor for a first offense and a class "D"  
29 felony for a second or subsequent offense. A person who  
30 commits additional criminal offenses while in violation of  
31 Code chapter 692A commits a class "C" felony under certain  
32 circumstances.

33 The bill makes the criminal offense of penetration of the  
34 genitalia or anus with an object under Code section 708.2(5) an  
35 offense that requires registration as a sex offender. The bill

1 makes the offense a tier III offense. An offense classified as  
2 a tier III offense is considered the most serious of offenses.  
3 A tier III offender must report to the county sheriff every  
4 three months and is prohibited from applying for modification  
5 of the sex offender registry requirements for five years from  
6 the date of the commencement of the requirement to register.

7 The bill provides that if a sex offender is placed on  
8 probation, parole, or work release and such status is  
9 subsequently revoked, the registration period for the sex  
10 offender shall commence anew upon release from custody.

11 The bill specifies that any violation of Code chapter 692A  
12 prior to July 1, 2009, shall be considered a previous offense  
13 for purposes of enhancing any penalty or period of registration  
14 in Code chapter 692A.

15 The bill provides immunity to schools, public libraries,  
16 and child care facilities and the employees of such entities,  
17 from liability for acts or omissions arising from a good faith  
18 effort to comply with the Code chapter 692A. Current law  
19 provides immunity to criminal and juvenile justice agencies and  
20 state agencies and their employees.

21 The bill specifies in certain burglary related provisions  
22 that if a judge or jury makes a determination beyond a  
23 reasonable doubt, that the offense is sexually motivated, the  
24 offender shall be required to register. Current law specifies  
25 this determination in Code section 692A.126 but not in the  
26 existing burglary provisions.